

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14215 of 2015

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1. Arun Kumar Singh Son of Late Bairister Singh Resident of Village +
P.O. Parsauna Tapsi, P.S. Palanawa, Block Raxaul, District - East
Champaran

.... Petitioner/s

Versus

1. The State of Bihar through it's Principal Secretary, Co - Operative
Department, Govt. of Bihar, Patna
2. The Bihar State Election Authority, Patna through the Chief Election
Officer, Bihar, Patna
3. The Registrar Co-operative societies, Bihar, Patna
4. District Magistrate, East Champara, Motihari - Cum - Election Officer of
the District for PACS Election
5. The Deputy Development Commissioner - Cum - Nodal Officer, East
Champara, Motihari
6. District Co - Operative officer, East Champara, Motihari (Block - Raxaul
) - Cum - Election Officer of Gadbahauri Primary Agricultural Credit
Society
7. Block Development officer, Raxaul, East Champaran, Motihari
8. Shri Shatrudhan Singh, Elected Chairman of Gadbahauri PACS, Raxaul
Block, East Champara, Motihari

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V.Giri, Sr. Adv.
Mr. Vikas Ratan Bharti, Adv.
For the Respondent/s : Mr. Kinkar Kumar, SC 27
Mr. Mahboob Ashraf, A.C. to S.C. 27

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 16-09-2015 Heard Mr. Y.V. Giri, learned Senior Counsel for the
petitioner and learned counsel for the State.

The petitioner is aggrieved the order dated
3.7.2015/10.7.2015 passed by the Registrar, Cooperatives
Societies in Election Case No. 194 of 2014 whereby the prayer for
recount made by the petitioner has been rejected.



It is argued by Mr. Giri that despite a prayer for recount having been made by the petitioner before the Returning Officer it was not acted upon and as a consequence 50 votes which was in fact cast in favour of the petitioner, was wrongfully included in the vote count of the private respondent which secured his result. He submits that even the election petition filed by the petitioner bearing Election case No. 194 of 2014 has been dismissed mechanically by the Registrar, Cooperative Societies without examining the matter.

I have heard learned counsel for the parties and I have perused the records.

The objection of the petitioner is present at Annexure-1 which mentions that 50 votes which he claims to have been cast in his favour was included in the vote count of the private respondent. The objection is addressed to the Returning Officer and it is on this foundation that the election case has been filed.

A perusal of the prayer made in the election case reflects that the petitioner has prayed for a simple recount without praying for any consequential declaration in his favour. Even if the arguments so advanced by Mr. Giri regarding non-consideration of his prayer for recount is accepted, in absence of any consequential relief/declaration prayed by of the petitioner, in my opinion, the

election petition is merely an attempt to engage the authorities in a roving enquiry which would not have any bearing on the result of the election in the circumstances existing in the present case.

Section 10 of the Bihar State Election Authority Act, 2006 provides the mode and manner of filing of an election petition and sub- section 2 thereof provides that where a petitioner claims a declaration in his favour he has to add the contesting candidates as parties and in absence of any such declaration, all the returned candidates are to be included in an election petition. Even if we stretch the election petition under the second option available under Section 10 of the Election Authority Act, in absence of the other returned candidates in the election petition in my opinion, even otherwise the election petition was not maintainable.

The writ petition is accordingly disposed of.

(Jyoti Saran, J)

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